

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Rulemaking to Define “Captured” and “New” Subscriber Lines For Purposes of Receiving Universal Service Support, Pursuant to 47 C.F.R. § 54.307 <i>et seq.</i>)	RM-10522
)	
)	

COMMENTS OF THE MINNESOTA INDEPENDENT COALITION

The following comments are submitted on behalf of the Minnesota Independent Coalition (“MIC”) pursuant to the Commission’s August 8, 2002 Public Notice seeking comments on the July 26, 2002 Petition for Expedited Rulemaking by the National Telecommunications Cooperative Association (“NTCA”).¹ All members of the MIC are rural telephone companies within the meaning of the Act² and provide local exchange service in the State of Minnesota.

The NTCA Petition underscores the need for the Commission to expeditiously move forward with a rulemaking to address comprehensively issues relating to portability of universal service support. It is also clear that very substantial increases in total costs of universal service will occur before that rulemaking can be completed. Those increases will occur because commercial mobile radio service (“CMRS”) providers who are designated competitive eligible telecommunications carriers (“CETCs”) are reporting loop counts to the Universal Service Administrative Company’s (“USAC”) that include *every* customer loop that they provide in areas where they have been designated as CETCs. USAC estimates of the support costs further indicate that USAC intends to provide support for every CMRS loop reported. As the NTCA notes, USAC estimates of support for CETCs increased almost five times, from approximately

¹ *Consumer and Governmental Affairs Bureau, Reference Information Center, Petitions for Rulemaking Filed*, PUBLIC NOTICE, Report No. 2567, RM No. 10522 (August 8, 2002)

\$15.3 million for USAC's estimate for the First Quarter, 2002, to \$76.4 million for USAC's estimate for the Third Quarter, 2002.³

Providing support to all CMRS lines is inconsistent with the current Rules. Rule 54.307(a) establishes the basic criteria for support of CETC lines, and limits support to CETC lines meeting set criteria and, by implication, excludes other lines from receiving support. Rule 54.307(a) reads in part:

A competitive eligible telecommunications carrier shall receive universal service support *to the extent* that the competitive eligible telecommunications carrier *captures* the subscriber lines of an incumbent local exchange carrier (LEC) or *serves new subscriber lines* in the incumbent LEC's service area.

(Emphasis added). The terms "to the extent," "captures," and "new subscriber lines" impose limitations on the categories of CETC lines that are to receive support. If all CETC lines were to receive universal service support, these terms would not have been included in the Rule.

The term "captures" reflects one category of CETC lines that are to receive universal service support. Under this category, a CETC shall receive support for any line *taken from* a LEC. A CETC has captured a line from a incumbent if the incumbent formerly provided that line to the customer and the line is now provided by the CETC. The *Ninth Report and Order*⁴ and *First Report and Order*⁵ both support this application of the Rule.

² 47 U.S.C. § 153(37).

³ *NTCA Petition* at pp. 3-4.

⁴ *Ninth Report and Order and Eighteenth Report on Reconsideration*, CC Docket No. 96-45, FCC 99-306, 14 FCC Rcd. 20432, ¶ 90 (1999) reads in part:

To insure competitive neutrality, we believe that a competitor *that wins a high-cost customer from an incumbent LEC* should be entitled to the same amount of support that the incumbent would have received for the line, including any interim hold-harmless amount. (Emphasis added.)

⁵ *Report and Order*, CC Docket no. 96-45, 12 FCC Rcd 8776, ¶ 287 (1997) reads in part:

A competitive carrier that has been designated as an eligible telecommunications carrier shall receive universal service support to the extent that it captures subscribers' lines *formerly served* by an ILEC receiving support or new customer lines in that ILEC's study area. ... We conclude that paying the support to a CLEC that *wins the customer's*

The term “new” reflects a second category of lines CETC lines that are to receive universal service support. Under this category, only new lines that are added by the CETC should receive support. The necessary implication is that a CETC’s preexisting lines not receive support. The *First Report and Order* supports this application of the Rule.⁶ Further, providing support to every preexisting CETC loop makes the term “new” meaningless. Providing support to every preexisting line is also the source of most growth in the estimated cost of providing support for CETCs.

Both the level of support and the lines eligible for support require clarification. USAC’s application of the current Rules to include all preexisting CMRS loops and the resulting impact on the cost of federal universal service support underscore the need for the Commission to expeditiously and comprehensively address all issues relating to portability in its anticipated rulemaking.

Respectfully submitted,

MINNESOTA INDEPENDENT COALITION



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lines or adds new subscriber lines would aid the emergence of competition.

⁶ *Report and Order*, CC Docket no. 96-45, 12 FCC Rcd 8776, ¶ 311 (1997) reads in part: We conclude that paying the support to a competitive eligible telecommunications carrier that wins the customer or *adds a new subscriber* would aid the entry of competition in rural study areas. (Emphasis added.)

CERTIFICATE OF SERVICE

I, Jean J. Hunsinger, hereby certify that on the 9th day of September, 2002, a copy of the Comments by the Minnesota Independent Coalition was sent by first class United States mail, postage prepaid, to those listed on the attached list.

By: /s/ Jean J. Hunsinger
Jean J. Hunsinger

SERVICE LIST

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RM-10522**

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